

Policies and Procedures

SECTION: Administration	NO. 2.2.28.		
CHAPTER: Human Resources	ISSUED: 11/20/13	REV. A	REV. B
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PURPOSE

The purpose of this policy is to comply with tax and employment laws and regulations concerning the classification of an individual as an employee versus an independent contractor, and to promote timely payments to those individuals. Proper classification of an individual determines the University's tax withholding and income reporting obligations and the system (payroll v. accounts payable) through which the individual will be paid. Misclassification of employees as independent contractors results in a failure to withhold and remit required income and employment taxes and exposes the University to potential IRS assessments of tax, penalties and interest, as well as claims by misclassified workers.

POLICY

Each individual ("worker") must be properly classified as an employee or independent contractor in accordance with federal and state tax and employment laws. It is critical, ***prior to engaging an individual*** to provide services for the University, a determination be made whether that individual should be classified as an employee or as an independent contractor. All individuals who perform services for the University are presumed to be employees unless the relationship satisfies Internal Revenue Service (IRS) and related common law standards for independent contractor status.

DEFINITIONS

"Temporary Employee (faculty and staff)" - An individual who the University hires directly and is paid by the University and does not receive University benefits. A temporary employee cannot work at the University for more than 1000 hours in a 12 month period of time.

"Independent Contractor" - Individuals, sole proprietorships, partnerships, corporations, organizations, etc., who generally provides services to the general public. Contractors are responsible for the means and methods for providing the services based on specifications in a contract with the University. Contractors generally have multiple clients, maintain a separate workplace and are not directly supervised or controlled by University employees. Contractors do not receive University benefits.

PROCEDURE

The procurement of services requires an evaluation of whether a worker should be classified as an employee or as an independent contractor. This evaluation and classification must be performed ***before*** engaging the individual to perform services so that the University can comply with its tax withholding and reporting responsibilities, and so payment to the worker will not be delayed. The evaluation must be based upon IRS and related standards, and ***not*** upon administrative ease, budget constraints or funding guidelines.

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Workers who perform services for the University are presumed to be employees of the University unless the relationship satisfies IRS standards for independent contractors. The primary difference in these two business relationships is that employees are paid through payroll and the University must withhold income and employment taxes, while an independent contractor is paid via accounts payable, usually without any tax withholding. In general, an independent contractor is engaged when the services needed are urgent, special, temporary, or highly technical and cannot be performed economically or satisfactorily by University staff members within the scope of their normal University responsibilities.

Effective for services beginning on or after January 1, 2014, all individuals providing services a temporary capacity, with the few exceptions approved through the Exception to Employee Status Form, will be hired as employees of the University. This requirement only applies to individuals working at Creighton University in a temporary status. To assure individuals are paid promptly and in accordance with IRS regulations, the following will be required:

- 1. Temporary Employment:** A standard contract or letter must be approved and signed by both parties prior to beginning work. The standard contract/letter forms can be found [here](#).
- 2. Independent Contractors** – An independent contractor can only be engaged upon completion and *approval* of the on-line Employee/Independent Contractor [web form](#).
- 3. Exceptions:** Certain exceptions will be allowed without Human Resources review.

A [Temporary One-Time Independent Contractor Agreement](#) is needed for the following approved exceptions: Honorariums/Guest Speaker, Proctors, Preceptor payments paid to a company, Entertainers, Announcers.

No contract is needed for the following approved exceptions: Athletic Officials, Standardized Patient Stipends, Research Participant Stipends, TRIO program workers, Dissertation Team Member Stipends.

SCOPE

This policy applies to all University service providers.

ADMINISTRATION AND INTERPRETATIONS

For guidance in administering and interpreting this policy, supervisors may contact the University's Human Resources Department or the University's General Counsel.

AMENDMENTS OR TERMINATION OF POLICY

The University reserves the right to modify, amend or terminate this policy at any time.